S.B. CIVIL WRIT PETITION NO.1400/2005

Alka Soni vs. Rent Tribunal and another

Date : 30.3.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. Vinod Bhadu, for the petitioner.

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Heard learned counsel for the petitioner.

The petitioner has challenged the impugned order dated 18.2.2005 by which the Rent Tribunal rejected the petitioner's application.

It is clear from the facts mentioned in the impugned order itself that both the parties led their evidence and the case was fixed for final arguments. The final arguments were heard but when the Tribunal found that the issues have not been framed, the Tribunal framed the issues. The order framing issues is not under challenge. Again the Tribunal heard the arguments obviously on the basis of all the material available on record including the evidence recorded by the Tribunal. The case was again fixed for judgment on 8.2.2005. On 8.2.2005, the judgment was not pronounced because the Presiding Officer was on leave and the case was fixed for judgment on 17.2.2005. During this period, an application under Order 14 Rule 5 C.P.C. For framing of issue about jurisdiction of the Tribunal as according to the petitioner, the Tribunal

had no jurisdiction to hear the matters relating to tenancy having rent more than Rs.2,000/- per month. The Tribunal rejected the said application.

The facts mentioned above itself are sufficient for denying the petitioner to approach this Court for any equitable relief. The petitioner submitted the present application after final arguments in the case and when the case was fixed for pronouncement of the judgment. The application filed after final arguments but before the pronouncement of the judgment itself was not maintainable at all. However, even otherwise if the petitioner had a plea that the Tribunal had no jurisdiction, it could have been raised as a ground during the arguments before the Tribunal as the ground was about the jurisdiction of the Tribunal. Therefore, that could have been decided by the Tribunal while deciding the suit itself in the judgment.

The application at such a belated stage for framing of issue only was, therefore, rightly rejected by the Tribunal as the petitioner could have raised the objection about jurisdiction at the time of arguments. Not only this, if it is a case of total inherent lack of jurisdiction of the Tribunal, the objection can be raised even at the appellate stage, if law permits.

In the facts of the case, this Court finds no

reason to interfere in the impugned order while exercising writ jurisdiction under Article 227 of the Constitution of India.

Accordingly, this writ petition having no force, is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya